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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,682	01/27/2004	Richard J. Roberts	CMJ-113-A	1440

7590 06/03/2005
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EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,682

Applicant(s)

ROBERTS, RICHARD J.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10, 15, 16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 11-14 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Detailed Action

This is the third Office Action corresponding to amendment filed May 16, 2005, which has been entered. The application contains 20 claims. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. A review of the former Office Action not only shows that the final rejection was premature but other errors, too apparently due to the copy and paste of the first Office Action into the second action; and or oversight as it is the objection to the drawings and the specification. The examiner regrets this.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hook must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and

where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: the specification should be amended to incorporate the language of the claims directed to the self-locking of the cross brace within the angled member (please refer to claim 19).

Appropriate correction is required.

Claim Objections

Claims 1-20 are objected to because of the following informalities: All the independent claims includes a clause reciting the angled member being *engageable* with a shelf. This may be interpreted as to the shelf being a positive element of the invention. The examiner suggests using - - adapted to be engaged - - to clarify that the shelf is not considered a positive element of the invention sought to be patented. Further, other

Art Unit: 3632

claims, for example claim 1, recite the cross brace engageable with the elongated portions. Since both the cross brace and the elongated portions are positive elements of the invention, their interaction should be positively recited. The examiner suggests - - cross brace portion engaged with the enlarged portions - -. Appropriate correction is required.

Claim Rejections - 35 USC § 102

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (Pat No 5,381,738).

The patent to Meyer discloses a bracket for supporting a shelf, said bracket comprising a first elongated portion (22), a second elongated portion (14) and a cross brace (18); the elongated members having enlarged portions (46, 50) defining apertures wherein the cross brace is received and engaged to the elongated members.

Claim Rejections - 35 USC § 103

Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer. The surface of the cross brace member of Meyer can receive any type of indicia for aesthetics, or advertisements; for example stickers, or labels.

Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Kluge (Pat No 6,053,465).

Art Unit: 3632

The patent to Kluge shows another shelf bracket holder comprising two elongated portions and a cross brace (27) having a hook portion (45) for supporting an item from the cross brace. It would have been obvious to one skilled in the art at the time the invention was made to have provided the bracket shown by Meyer with a hook on the cross brace as shown by Kluge to support an item from the cross brace and improved the utility of the device. As to claim 18, please note that the claim recites the ornamental appearance of the cross brace being one of many; for example a hook.

Allowable Subject Matter

Claims 1-9, 19 and 20 are allowed.

Claims 11-14, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments regarding the rejected claims have been fully considered but they are not persuasive.

Claim 10 arguments are directed to the apertures on the enlarged portions but Meyer shows them, that is where the brace is received.

Claim 15 arguments are that Meyer cannot receive indicia; however as indicated in the rejection, the surfaces of the brace are capable of receiving indicia as stickers.

Claim 16 arguments are directed to the brace member of Krudge but Krudge is being used for its teachings of a brace forming a hook.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.


The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3632

A shortened period for response to this Office Action expires THREE MONTHS
from the mailing date of this action.

ROR
June 1, 2005


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632